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9 INTERNATIONAL BUSINESS MACHINES  
10 CORPORATION and MRO SOFTWARE, INC.

11  
12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14 ACTUATE CORPORATION,  
15 a Delaware corporation,

16 Plaintiff,

17 v.

18 INTERNATIONAL BUSINESS MACHINES  
19 CORPORATION, a Delaware corporation,  
20 MRO SOFTWARE, INC., a Massachusetts  
21 corporation,

22 Defendants.

23 Case No.: CV 09 5892 JCS

24 **STIPULATION REGARDING  
25 RESPONSE TO COMPLAINT**

26  
27 The Honorable Joseph C. Spero  
28 Courtroom A, 15th Floor

1        WHEREAS, Plaintiff Actuate Corporation (“Actuate”) filed on December 16, 2009  
2 its Complaint for Breach of Contract, Copyright Infringement, Circumvention of Copyright  
3 Protection Systems, and Fraudulent Concealment (the “Complaint”);

4        WHEREAS, Defendants International Business Machines Corporation and MRO  
5 Software, Inc. (collectively “Defendants”) were served on December 17, 2009 with a  
6 summons and copy of the Complaint;

7        WHEREAS, Defendants have requested and Actuate has agreed to provide  
8 Defendants additional time in which to respond to the Complaint; and

9        WHEREAS, Defendants intend to file a motion to dismiss one or more claims  
10 alleged in the Complaint;

11       ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED that Defendants  
12 will file a motion to dismiss on or before January 25, 2010 and will notice that motion for  
13 hearing on March 5, 2010; that Actuate will file an opposition to Defendants’ motion to  
14 dismiss on or before February 12, 2010; and that IBM will file a reply on or before February  
15 19, 2010.

16       IT IS FURTHER STIPULATED AND AGREED that Defendants need not  
17 otherwise respond to the Complaint until two weeks following the receipt of a ruling on  
18 Defendants’ motion to dismiss.

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1 IT IS SO STIPULATED AND AGREED.  
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3 DATED: January 4, 2010  
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HOGAN & HARTSON LLP

5 By /s/ Michael J. Shepard  
Michael J. Shepard

6 Attorneys for Defendants  
7 INTERNATIONAL BUSINESS MACHINES  
8 CORPORATION and MRO SOFTWARE, INC.

9 DATED: January 4, 2010  
10

FENWICK & WEST LLP

11 By /s/ Rodger R. Cole  
Rodger R. Cole

12 Attorneys for Plaintiff  
13 ACTUATE CORPORATION

14 \* \* \*

15 I, Michael J. Shepard, am the ECF User whose ID and password are being used to  
16 file this Stipulation Regarding Response to Complaint. In compliance with General Order  
17 45, X.B., I hereby attest that Rodger R. Cole has concurred in this filing.  
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19  
20 /s/ Michael J. Shepard

21 Michael J. Shepard

22  
23 Dated: January 5, 2010  
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